

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

CURTIS GAINNEY, # 254562,	)	C.A. No. 0:05-0713-TLW
	)	
Petitioner,	)	
	)	
vs.	)	WRITTEN OPINION AND ORDER
STATE OF SOUTH CAROLINA;	)	
ATTORNEY GENERAL, HENRY	)	
MCMASTER; AND WILLIE EAGLETON,	)	
WARDEN OF EVANS CORRECTIONAL	)	
INSTITUTION,	)	
	)	
Respondents.	)	
	)	
	)	

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In this *pro se* case, the petitioner, who is an inmate at the Evans Correctional Institution serving a nineteen (19) year sentence following his conviction for voluntary manslaughter and carrying a pistol onto the premises of a business which sells alcohol, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. In his petition, the petitioner alleges, in part, that his legal counsel was ineffective. The respondents deny these allegations and have filed a motion for summary judgment. The petitioner has not filed any opposition to this motion, despite being advised by the Court of the serious consequences if he failed to do so.

This matter now comes before the undersigned for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Bristow Marchant, to whom this case had previously been assigned. In his Report, Magistrate Judge Marchant recommends that the respondents’ motion for summary judgment be granted and that the instant petition be dismissed. As reasoned by the Magistrate Judge:

Petitioner failed to timely file this federal petition, and he is therefore barred from seeking federal habeas relief.

Notably, the plaintiff has also not filed any objections to the Report.

This Court is charged with conducting a *de novo* review of any portion of the Magistrate Judge’s Report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. §

636. As stated above, no objections have been filed to the Report. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this Court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4<sup>th</sup> Cir. 1983). As well, it is reasonable to conclude that the plaintiff agrees with the Report and the recommendations contained therein.

A *de novo* review of the record indicates that the Report accurately summarizes this case and the applicable law. For the reasons articulated by the Magistrate Judge, it is **ORDERED** that the respondents' motion for summary judgment is **GRANTED** and the instant petition is **DISMISSED**.

**IT IS SO ORDERED.**

s/ Terry. L. Wooten  
Terry L. Wooten  
United States District Court Judge

August 31, 2005  
Florence, South Carolina